

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

DAVID CROOKS,

Plaintiff,

v.

JULIA BLACKWELL GELINAS;
MICHELE LORBIESKI ANDERSON;
MELANIE D. MARGOLIN;
LUCY R. DOLLENS,

Defendants.

) Cause No. 3:11-CV-221-RLM-CAN

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DEFENDANTS' MOTION TO DISMISS AMENDED COMPLAINT

Defendants Michele Lorbieski Anderson, Lucy R. Dollens, Julia Blackwell Gelinas, and Melanie D. Margolin (collectively, "Defendants"), by counsel, move to dismiss the Amended Complaint filed by Plaintiff David Crooks ("Crooks") with prejudice pursuant to: (1) Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction; and (2) Rule 12(b)(6) for failure to state a claim upon which relief can be granted. The Court lacks jurisdiction to hear this action because this action is barred by the Rooker-Feldman Doctrine as an improper attack a state court action. In addition, Plaintiff's causes of action should be dismissed pursuant to Rule 12(b)(6) because: (1) the Federal Debt Collections Practices Act does not provide a cause of action stemming from the foreclosure of real estate; and (2) his common law claims for fraud and emotional distress fail to state cognizable claims as pled. Defendants respectfully request further that Plaintiff be denied the right to replead and that this action be dismissed with prejudice.

In accordance with Local Rule 7.1, Defendants have filed a supporting brief concurrently with this motion.

Date: September 29, 2011

FROST BROWN TODD LLC

By: /s/ David T. Kasper

David T. Kasper, #10538-49
Attorneys for Defendants Household
Finance Corp, III, HSBC Mortgage
Services, Julia Blackwell Gelinis, Michele
Lorbieski Anderson, Melanie D. Margolin,
and Lucy R. Dollens

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served this 29th day of September, 2011, via United States Mail, first postage prepaid, upon the following:

David L. Crooks, Pro Se
2709 Neff Street
Elkhart, Indiana 46514

I hereby certify that a true and accurate copy of the foregoing was filed electronically this 29th day of September, 2011. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Heidi K. Koeneman
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/s/ David T. Kasper
David T. Kasper

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